

2005 NOV 29 PM 2:15

CLEVELAND

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL ADAMS
5528 Barclay Ct.
Chino Hills, CA 91709,

and

REBECCA K. BOYER
1629 Peony Road
Lancaster, PA 17602,

and

SUMMER CARMICHAEL
270 North Canon Drive #1990
Beverly Hills, CA 90210.

and

JAMES F. COLGROVE
74 Pittsburgh Hill Road
Conestoga, PA 17516

and

JON COOPER
131 Prospect Street
Lancaster, PA 17603,

and

DANIEL L. EMMERT
203 Tennyson Drive
Lancaster, PA 17602,

) CASE NO. 1 : 05CV2760

) JUDGE:

JUDGE BOYKO

COMPLAINT BY EMPLOYEES
UNDER FAIR LABOR
STANDARDS ACT TO
RECOVER UNPAID AND
UNDERPAID OVERTIME
WAGES

JURY DEMAND
ENDORSED HEREON

and)
C. EDWIN FLORY)
136 Elizabeth Harrison Lane)
Williamsburg, VA 23185-7926,)
)
and)
JEFFREY DWIGHT FULBRIGHT)
3835 Thornhill Drive, SW)
Lilburn, GA 30047,)
)
and)
CHARLES GEORGE)
114 Keener Road)
Lititz, PA 17543.)
)
and)
FREDDIE B. HALL)
6920 S. Indiana Street)
Chicago, IL 60637,)
)
and)
DUDLEY LANE HAMMOND)
2156 N. Damen Avenue)
Chicago, IL 60647.)
)
and)
KATRINA M. HERBST)
86-03 120TH Street)
Richmond Hill, NY 11418.)
)
and)
ISRAEL C. HERRERA)
6768 Gilbert Place)
Alta Loma, CA 91701,)
)
and)
)
)

MELISSA HERRIN)
809 Ridgelake Drive)
Metairie, LA 70001-4254.)
and)
DWAIN E. JACKSON)
6922 Knowlton Place – Unit 303)
Westchester, CA 90045,)
and)
JAMES A. KANUCH, SR.)
107 Nyetimber Parkway)
Coraopolis, PA 15108-3147,)
and)
THOMAS S. KUZMA)
1537 Lampeter Road)
Lancaster, PA 17602-1734,)
and)
KENNETH LOWE)
236 Greenview Drive)
Lancaster, PA 17603,)
and)
MICHAEL W. MCGINNIS)
2285 Iron Bridge Road)
Columbia, PA 17512-8925,)
and)
DIANE M. MILLER)
28 Court Street, Unit 1)
Mansfield, MA 02048,)
and)
EDDIE MIRANDA)
546 Medford Drive)
South Elgin, IL 60177.)

)
and)
CLAYTON T. MORRIS)
2539 Chesterbrooke Drive)
Lithia Springs, GA 30122,)
)
and)
DWIGHT E. MOWRER)
405 Stackstown Road)
Marietta, PA 17547)
)
and)
BRYAN MUSSER)
1006 Northfield Drive)
Elizabethtown, PA 17022,)
)
and)
STEVEN W. OLSEN)
6813 Red Maple Drive)
Charlotte, NC 28277,)
)
and)
DUANE PIEJKO)
16844 Creekside Avenue)
Tinley Park, IL 60477,)
)
and)
TERRY PONTANO)
1414 Vendome Avenue)
Laval, Quebec, Canada H7W-151)
)
and)
THOMAS W. RALSTON)
317 Fairview Drive)
Lititz, PA 17543,)
)

)
and)
)
JEFFREY CARL ROGERS)
265 Plantation Road)
Fayetteville, GA 30214,)
)
and)
)
GEORGE RAY ROOT JR.)
492 Willow Road)
Lancaster, PA 17601,)
)
and)
)
BARBARA SALDARINI)
1008 Sheila Drive)
Toms River, NJ 08753-3522.)
)
and)
)
STANLEY B. SNYDER, JR.)
2729 Spring Valley Road)
Lancaster, PA 17601,)
)
and)
)
LEONA J. SORENSEN)
9024 S. Knox)
Hometown, IL 60456,)
)
and)
)
BRIAN G. STALLARD)
32582 Captains Galley)
Avon Lake, OH 44012-2104,)
)
and)
)
CHAD J. VARGO)
3315 Rillet Ct.)
Charlotte, NC 28269,)
)
and)
)
)

)
)
ALBERT W. WHIPKEY)
24617 E. Oakland)
Bay Village, OH 44140,)
)
and)
)
ROBERT W. WINSLOW)
211 Timberwood Drive)
Auburn, AL 36830)
)
and)
)
CRAIG ZINK)
316 Holly Lane)
Lancaster, PA 17602,)
)
Plaintiffs,)
)
vs.)
)
R. R. DONNELLEY & SONS COMPANY)
77 West Wacker Drive)
Chicago, IL 60601.)
)
Defendant.)

INTRODUCTORY STATEMENT

1. This is an Action for damages sustained by certain citizens of the United States of America as a result of the acts and omissions of the Defendant.

2. The acts and omissions complained of are all violations of property rights of these citizens, which property rights are protected by statutes of the United States of America and the laws of the States of California, Georgia, Illinois, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, and Virginia.

PARTIES

3. Plaintiffs reside at the addresses set forth in the caption and either are current or past employees of R. R. Donnelley Financial, a business unit of R. R. Donnelley & Sons Company, a corporation organized and existing under the laws of the State of Delaware and having its principal executive offices located at 77 West Wacker Drive, Chicago, Illinois 60601 (hereinafter "Defendant"). Plaintiffs are or were employed as Customer Service Associates, Customer Service Representatives, or Senior Customer Service Representatives during some portion of the period beginning December 1, 2002 and ending November 30, 2005 and were employed at one or more of the following types of facilities operated by the Defendant: (1) manufacturing facilities; (2) fulfillment units; (3) print-bind centers; and (4) customer service centers.

4. Defendant corporation provides communications services including premedia, digital photography, content management, printing, Internet consulting and logistics. For calendar year 2004, Defendant reported Total Revenue of \$7.2 billion, Operating Income of

\$459.2 million, and Net Income from Continuing Operations in the amount of \$264.9 million. The Defendant employs approximately 33,000 people and services customers in North America, South America, Europe, and the Asia/Pacific Basin. In Ohio, Defendant employs approximately 1,550 persons with client service offices in Cleveland, Columbus, Cincinnati and manufacturing plants in Newark, and Willard.

JURISDICTION

5. Plaintiffs bring this action to recover unpaid overtime compensation under the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 *et. seq.*). Jurisdiction under the Fair Labor Standards Act (hereinafter the “Act”) is conferred upon the Court by Section 216(b) of the Act.

VENUE

6. Venue is proper under 28 U.S.C. Section 1331(b) and (c) because certain acts, events, and/or omissions giving rise to the claims of three of the Plaintiffs occurred within this Court’s judicial geographic district, namely Cleveland, Ohio, and Defendant corporation operates and maintains offices in various locations within Ohio and does business throughout the State of Ohio.

GENERAL FACTUAL ALLEGATIONS

7. Upon information and belief, Plaintiffs all allege the following against the Defendant.

8. Plaintiffs were employed by Defendant as “Customer Service Associates”, “Customer Service Representatives”, and “Senior Customer Service Representatives” for part or

all of the period beginning October 1, 2002 and ending September 30, 2005 (the "Computation Period") and were classified by Defendant as "salaried exempt".

9. Defendant is a Delaware Corporation with its principal place of business in Chicago, Illinois, engages in interstate commerce by providing print and communication services, and employs approximately 1,550 persons in the State of Ohio at five or more geographic locations therein.

10. As "Customer Service Associates", "Customer Service Representatives", and "Senior Customer Service Representatives", Plaintiffs' primary duties were to assemble and produce documents for Defendant's clients. Thus, Defendant employed Plaintiffs for the production of goods for interstate commerce and/or Plaintiffs' labor was concerned with a process or occupation necessary to the production of goods for interstate commerce and As a result, Plaintiffs are non-exempt employees entitled to receive overtime compensation under the Act.

11. As an example of the common classification, treatment, and conditions of employment established by Defendant with regard to the majority of the within Plaintiffs, from the date of his hire in September of 1999 to February 12, 2001, Plaintiff Whipkey was paid overtime at a rate less than one and one half times his normal rate. For the period of February 13, 2001 through May 31, 2002, Plaintiff Whipkey received no overtime compensation for approximately 900 overtime hours worked during that period. A true, accurate, and authentic copy of Defendant's September 28, 1999 offer of employment to Plaintiff Whipkey is attached hereto as Exhibit A and expressly incorporated herein by reference. Exhibit A contains the provision for overtime compensation at a rate less than one and one half times Plaintiff Whipkey's normal compensation rate. A true, accurate, and authentic copy of Defendant's May

29, 2001 notification to Plaintiff Whipkey regarding the company's change of overtime compensation policy for employees classified as "salaried exempt" is attached hereto as Exhibit B and expressly incorporated herein by reference. For the period beginning September 1, 2002 and ending August 31, 2003, Plaintiff Whipkey received no overtime compensation for four hundred twenty nine and three quarters hours (439.75) and compensation at 1.25 times his normal rate for one hundred eighty and one half hours (180.5). At Plaintiff Whipkey's then existing compensation rate of \$28.31 per hour, Plaintiff Whipkey is owed \$18,249.33 for unpaid overtime hours and \$1,277.56 for underpaid overtime hours.

12. Most, if not all, of the other Plaintiffs herein received offers of employment and notification of the cessation of weekday overtime payment similar to those received by Plaintiff Albert Whipkey.

13. The acts and omissions of the Defendant set forth above constitute violations of Section 7 of the Act and as a result there are sums now due and owing from Defendant in amounts that are not as yet determined by the Plaintiffs and when said sums are ascertained. Plaintiffs will ask leave of the Court to amend the complaint in order to insert the respective damage amounts for each Plaintiff.

14. In order to institute and prosecute this action against the Defendant, Plaintiffs have of necessity employed the attorneys now appearing herein on their behalf. Plaintiffs will be required to expend reasonable attorneys' fees for said attorneys in the interest of this action and to expend other costs and expenditures necessarily incurred and have agreed to pay said attorneys for their services herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the damages and other relief as set forth below.

- (1) Plaintiffs pray for judgment against Defendant in a sum according to proof, together with an equal sum as liquidated damages, together with interest thereon;
- (2) Plaintiffs pray for judgment against Defendant for their reasonable attorneys' fees according to proof, costs of suit herein, and such further relief as shall be granted by this Honorable Court.

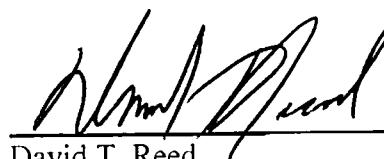
Respectfully submitted


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Attorneys for Plaintiffs
Michael Adams et al.

JURY DEMAND

Plaintiffs request that a jury hear all legal claims regarding these matters.



David T. Reed
One of the Attorneys for Plaintiffs
Michael Adams et al.